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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTON OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fifth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 3 August 1993, at 10 a.m.

Chairman: Mr. AL-KHASAWNEH

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The meeting was called to order at 10.15 a.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN informed members that the Sub-Commission's officers had met on the previous afternoon. They had discussed the organizational aspects of the Sub-Commission's work and had made some recommendations for its guidance during the forthcoming weeks. As the session proceeded, the officers would follow developments closely and revise the recommendations in keeping with needs.

2. The officers had agreed in principle to add a new agenda item concerning the issue of humanitarian intervention, for which they had proposed the following title: "Humanitarian intervention and human rights". However, the informal meeting held on the subject had proposed the title: "Implications of humanitarian activities for the enjoyment of human rights".

3. He suggested that, if there was no objection, the new agenda item should become item 19, with consequential renumbering of the existing items 19 and 20.

4. It was so decided.

5. The CHAIRMAN said that the officers had decided to propose that agenda item 5 (b) should be amended so as to reflect the new mandate entrusted to Mrs. Attah.

6. He suggested that, if there was no objection, agenda item 5 (b) should read "Monitoring the transition to democracy in South Africa".

7. It was so decided.

8. The CHAIRMAN pointed out that each member of the Sub-Commission had a copy of the provisional timetable proposed by its officers. In making their recommendations the officers had taken into account, inter alia, the availability of documents and the possibility of rapporteurs being able to present their reports. Members also had before them a list reflecting the status of the documentation for the forty-fifth session. A set of available documents had been prepared for each member and the Secretariat was making arrangements to facilitate the daily distribution of new documents.

9. As in previous years, the officers recommended the establishment of the Working Group on Detention. He therefore requested the regional groups to hold consultations and to notify the Sub-Commission's officers, during the course of the present meeting, of the name of the member selected to serve on the Working Group.

10. In accordance with established practice, and for the purpose of presenting reports or taking part in the discussions relating to reports, the officers recommended that the following Special Rapporteurs, who were no longer members of the Sub-Commission, should be invited to attend the session when the relevant agenda items were discussed: Mr. Van Boven (item 4) and

Mr. Treat (item 10). The same invitation would be extended to Mr. Varela Quiros (item 4) upon receipt of his final report on discrimination against persons suffering from AIDS.

11. The officers also recommended that invitations should be sent to the Chairman of the Commission on Human Rights at its forty-ninth session, who had to inform the Sub-Commission on the Commission's debate on the work of the Sub-Commission, in accordance with Commission resolution 1993/28, paragraph 11, and to Mr. Vitit Muntarbhorn, the Commission's Special Rapporteur on the sale of children, child prostitution and child pornography in accordance with Commission resolution 1993/82, paragraph 19.

12. In making their recommendations, the officers had taken into account the guidelines which the Sub-Commission had adopted at its forty-fourth session concerning its methods of work, in resolution 1992/8. The order of statements would be: (1) Members of the Sub-Commission at any time; (2) Observers for non-governmental organizations; (3) government observers. The speaking time allowed would be a maximum of 20 minutes for members, for one or more statements; 35 minutes for special rapporteurs, to be divided between the introduction of the report and the concluding remarks; a maximum of 10 minutes, and of 14 minutes in total for composite items for observers for States; 5 minutes for statements immediately before voting when the country concerned was implicated; in the case of statements by observers for Governments equivalent to a right of reply, 5 minutes for the first statement and 3 minutes for the second; a maximum of 10 minutes and of 16 minutes in total for composite items, or joint statements, for observers from non-governmental organizations; and for observers from intergovernmental organizations, specialized agencies and national liberation movements, the same speaking time as proposed for observers for States.

13. The list of speakers had been opened at the beginning of the session and its closing would be announced in good time. When there were no more speakers on the agenda item or items for a particular meeting, the Sub-Commission would take up the next item on its timetable without necessarily closing the discussion on the preceding item.

14. Draft resolutions and decisions were to be submitted at least three working days before the date on which they were scheduled to be put to a vote. The deadline was set at four days and would be strictly observed in cases involving financial implications.

15. The officers had also discussed certain matters relating to the implementation of Commission on Human Rights resolution 1993/28 entitled "Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities".

16. He said that, if there was no objection, he would take it that the Sub-Commission approved those arrangements.

17. It was so decided.

18. Mr. ALFONSO MARTÍNEZ pointed out that the new additional item 19 did not appear in the draft timetable proposed by the Sub-Commission's officers.

19. The CHAIRMAN said that he would be able to give some precise information on that matter later on.

20. Mr. KHALIFA noted that in the draft timetable consideration of agenda item 4 (Review of further developments in fields which the Sub-Commission has been concerned), which was usually taken up in the first week of the session, had been moved back towards the end of the session. The item was rather open-ended, and at the present session it included consideration of the World Conference on Human Rights. It really ought to be taken up at the beginning of the session; otherwise insufficient attention might be given to the World Conference. He therefore moved that item 4 should be taken up between item 3 and 5 (a) and be kept under consideration until the end of the session.

21. The CHAIRMAN said that the order in which agenda items were considered did not reflect their importance. The Sub-Commission was constrained both by time and by the unavailability of documents. The reason why item 4 was to be taken up in the third week was that the relevant documents were not ready, perhaps because the Secretariat had been overwhelmed by the work it had had to do for the World Conference. He had nothing against Mr. Khalifa's motion, but there would be no documents to discuss.

22. Mr. YIMER said that, if not a single one of the several documents for item 4 was yet available, it was difficult to see what the Sub-Commission could discuss.

23. Mrs. PALLEY agreed with Mr. Yimer and added that no blame should be attached to the Secretariat. The human rights staff was the same size as it had been initially, and the human rights programme still accounted for only 1 per cent of the United Nations budget, even though many more committees had to be serviced. States were placing an intolerable burden on the Centre for Human Rights by hypocritically setting up new institutions and then not giving them the necessary support.

24. The CHAIRMAN asked whether Mr. Yimer's statement satisfied Mr. Khalifa.

25. Mr. KHALIFA said that he agreed with Mr. Yimer and Mrs. Palley and withdrew his motion. However, he wished to know what kind of documentation would be provided on the World Conference. In any case, he would prefer the discussion on it to take place during the second week of the session.

26. The CHAIRMAN said that it was not so important whether the item was discussed in the second or third week. The Sub-Commission's officers had found the present proposed timetable to be the best possible, in the light of the constraints. Additional meetings would be requested, but just how many would be possible was not yet known. He would thus be grateful if members did not question the proposed order in which items would be considered.

27. Mr. CHERNICHENKO said Mr. Khalifa's concern regarding item 4 was justified because for years the Sub-Commission had not had an opportunity to discuss all its aspects. Members had been informed that it could not be considered at an earlier stage because of the lack of documentation. The working paper (E/CN.4/Sub.2/1993/10) which he himself had prepared was, however, available in all working languages and could be considered at an

earlier date. Moreover, even if the Sub-Commission did not have the reports relating to the World Conference on Human Rights, it did have the Vienna Declaration and Programme of Action (A/CONF.157/23), which constituted the essence of its deliberations and could therefore be usefully discussed.

28. The CHAIRMAN said that he had been informed by the Secretariat that there were a great many documents emanating from the World Conference. The Secretariat might perhaps provide some kind of summary of them.

29. Mr. KHALIFA said that all members were aware that, in the hectic proceedings of the third and fourth weeks, the issues discussed did not receive the attention they deserved. In particular, the World Conference on Human Rights needed careful consideration, even if for one reason or another that might not be welcome in some q arters. In any case, the Sub-Commission should not keep the most important item on its agenda for so late in the session.

30. The CHAIRMAN suggested that the Sub-Commission might take up the World Conference on Human Rights now and return to the other issues covered by item 4 in the third week.

31. Mr. JOINET endorsed the Chairman's suggestion. However, the purpose of the Sub-Commission's debate on the World Conference on Human Rights was not to repeat its deliberations but to make a critical study, with proposals, of the Declaration and Programme of Action. The Secretariat would need time to prepare the documents, and comments made by members of the Sub-Commission would be helpful in that regard. Since the Vienna Declaration and Programme of Action was available, together with Mr. Chernichenko's working paper, the Sub-Commission could begin its discussion of item 4 and keep it open until the third or fourth week. If, on the other hand, sufficient material was available, the course proposed by the Sub-Commission's officers should be adopted.

32. Mrs. ATTAH suggested that the discussion on the World Conference could take place on Friday, 6 August, or Monday, 9 August, thereby giving the Secretariat time to prepare the documents.

33. The CHAIRMAN pointed out that in that case the proposed timetable would have to be altered.

34. Mrs. WARZAZI suggested that the Sub-Commission should discuss item 4 and the World Conference on Human Rights later in the first week at the time proposed for the first meeting of the Working Group on Detention. The time originally allocated to the Working Group on Detention could be made up by extending its proposed second meeting by an evening session.

35. In that way, members would have time to prepare themselves for the discussion on the World Conference on Human Rights.

36. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission wished to adopt the proposed timetable, as amended by Mrs. Warzazi.

37. It was so decided.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3) (E/CN.4/Sub.2/1993/1 and Add.1)

38. Mr. ALFONSO MARTINEZ appealed to members to refrain from criticism of other bodies in their statements, thus avoiding polemics.

39. The CHAIRMAN endorsed the comment of the previous speaker.

40. Mr. CHERNICHENKO said, further to a point raised by Mrs. ATTAH, that he had never seen a full set of summary records at the end of a session and inquired whether there was a problem in that connection.

41. The CHAIRMAN said that summary records were available piecemeal. He himself had always received a complete set at the end of a session. It was up to members to make the necessary arrangements with the Secretariat. He could however ask the Secretariat whether anything could be done to meet the problem which had been raised.

42. Mr. GUISSÉ, after endorsing the comments of Mr. Alfonso Martínez, stressed that members were independent experts and not the representatives of individual countries. The Sub-Commission should be a forum for reflection on human rights in the legal context.

43. Mrs. WARZAZI said that she was not aware that any political elements had been raised during the discussions. Such criticism as had been voiced had related to the budgetary process and had had nothing to do with politics. Budgetary questions should not be interpreted in political terms.

44. Referring to the question of the agenda, she expressed the hope that the Sub-Commission would at last be able to complete its work on the draft universal declaration on the rights of indigenous peoples during the current sessions.

45. Mr. ALFONSO MARTINEZ shared Mrs. Warzazi's concern. The preparation of draft declarations required a long period of time in order to be able to take account of every aspect of the issue. Members must not prejudge the work which was being done by the Working Group on Indigenous Populations in order to complete its task. The Working Group was dealing with the substance of its work in a very careful manner; undue haste would not be helpful.

46. Mrs. ATTAH assured Mrs. Warzazi that the members of the Working Group were working overtime and were attaching great importance to the quality of the document under preparation. They would try to complete the work as soon as possible.

47. Mrs. DAES welcomed the amount of time which had been allocated to item 14 which should provide both the Working Group and the Sub-Commission with enough

time to consider the very important and constructive work which had been done for indigenous peoples, bearing in mind that 1993 was the International Year for the World's Indigenous People. She appealed to members to make a genuine and sincere effort to complete the draft declaration.

48. In December 1992 the General Assembly had recommended strongly that the Working Group should complete its work during its current session. In that connection she was in the hands of members of the Working Group and the Sub-Commission itself.

49. Mrs. WARZAZI appreciated the problems mentioned by Mr. Alfonso Martínez. She believed that the officers had also felt the need to complete the draft declaration pursuant to the recommendation of the General Assembly. If the Working Group encountered problems, it should submit them to the Sub-Commission for solution.

50. Mr. ALFONSO MARTINEZ agreed that every effort must be made to comply with the request of the Commission on Human Rights. The Sub-Commission was, however, faced with a Commission resolution which was not acceptable. The Sub-Commission was not prejudging whether or not it would complete its work during the current year. That depended on the five experts in the Working Group. If the Sub-Commission could not complete its work during the current year, it must assume the corresponding responsibility.

51. The CHAIRMAN pointed out that, in paragraph 12 of resolution 1993/30, the Commission on Human Rights had requested the Working Group on Indigenous Populations making its best efforts, at its eleventh session, and the Sub-Commission, at its forty-fifth session, to complete their consideration of the draft declaration on indigenous rights and to submit their report to the Commission on Human Rights at its fiftieth session.

52. Mrs. ATTAH felt that it could hardly be said that the Commission on Human Rights wished to set aside the desire of the General Assembly, which was the higher body.

53. Referring to paragraph 14 of document E/CN.4/Sub.2/1993/1/Add.1, expressed the view that some of the reports of the Sub-Commission should be recommended for publication. The Sub-Commission might therefore set up a small committee of three or five members to go through some of the papers which had been prepared and choose two or three annually for reproduction. The Commission and other bodies around the world should be interested in such studies which should therefore be publicized.

54. Mr. YIMER noted that in paragraph 5 (d) of Commission on Human Rights resolution 1993/28 on the work of the Sub-Commission, the Commission had made recommendations regarding initiatives which would facilitate the widest possible dissemination of the findings of the Sub-Commission, such as the preparation of short summaries of each completed study for publication in various languages, for example in the Fact Sheet series. The Commission had therefore already taken the initiative in advising the Sub-Commission to make recommendations in that area. The Sub-Commission must discuss how to respond to Commission resolution 1993/28 under item 3.

55. Mr. EIDE reminded members that, when studies were deemed appropriate for publication, the final decision lay with the Economic and Social Council.

56. It would be useful to have brief summaries prepared for a wider audience but those should not be regarded as replacements for the complete studies.

57. The CHAIRMAN agreed with Mr. Eide.

58. Mr. ALFONSO MARTINEZ said that the changes to the timetable suggested by the officers in connection with agenda item 19 might have an adverse effect on the quality of the debate.

59. The CHAIRMAN expressed confidence in the ability of the members of the Sub-Commission to maintain the traditional high standards of debate.

60. Mr. HELLER sought clarification on the proposed informal working group to look into the issues related to agenda item 19. He also asked about the status of the meeting of the Working Group on Detention.

61. The CHAIRMAN said that, as far as he understood, there was no working group on agenda item 19 as such. An informal meeting of members of the Sub-Commission would discuss the contents of the item.

62. Mr. LEBAKINE (Secretary of the Sub-Commission), said that the Working Group on Detention would hold an extended meeting, if necessary.

63. Mr. ALFONSO MARTINEZ said that in view of the important topics to be discussed by the Working Group on Detention, including the outline paper drawn up in accordance with Sub-Commission decision 1992/107 on a special study which might be undertaken on the issue of the privatization of prisons (E/CN.4/Sub.2/1993/21), the Working Group should meet at the same time as the plenary.

64. The CHAIRMAN said that the final decision on the timetable for the Working Group on Detention would be left open.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION

65. Mr. EIDE said that he hoped that the Sub-Commission would address a problem which was giving him particular cause for concern, namely the increasing vehemence with which ethnic or cultural purity was being sought and the reorganization of States along ethnic or religious lines. Such phenomena had manifested themselves in many parts of central and eastern Europe in the aftermath of the disintegration of the USSR and Yugoslavia.

66. A new form of racism was taking hold and was no longer based on superiority in terms of biological factors. Racism was becoming inextricably linked with the defence of a cultural identity and an emphasis on differences between individuals and communities in such a way as to foster an ideology based on the rejection of other people who were not of the same identity,

followed even by efforts to eradicate them, often through violence. The worst example of the new trend was Bosnia and Herzegovina. However, there were other examples and they amounted to a head-on onslaught on the edifice on which the human rights system had been built. The efforts to settle the conflict in Bosnia and Herzegovina by dividing the State into three entities along ethnic lines amounted to another form of apartheid. If that was to be the final solution to the tragedy of Bosnia and Herzegovina, the international community would have to face its greatest challenge since the Universal Declaration of Human Rights had been proclaimed. Such a settlement, given the inadvisability of military action to stop the aggression, could be accepted if it was seen as no more than a cease-fire. However, as a solution, it was no more acceptable than the Bantustans had been in South Africa. It had taken more than 30 years of international action for the South African authorities to realize the futility of swimming against the tide. It would take time for the successful aggressors in Bosnia and Herzegovina to reach the same conclusion. It was understandable that the peace negotiators should want to end the bloodshed, but the principle of dividing countries into purely ethnic or religious entities and rewarding systematic mass rape, arson and other human rights violations would profoundly dishonour the United Nations and the international community and was therefore unacceptable.

67. Mrs. WARZAZI said that she fully endorsed the statement made by Mr. Eide. She believed that it was time to review the entire concept of racism. At previous sessions when the Sub-Commission had discussed the problems of migrant workers and racism, an automatic association had been made between racial discrimination and the fact of living or working in a country which was not one's own. Even in Europe, discrimination could be seen towards fellow Europeans. One example was the discrimination in Switzerland against migrant workers such as Italians and Portuguese. Discrimination in that form could arguably be termed as economic rather than blatantly racial discrimination. Hitherto, there had never been any differentiation, and racism had been seen as discrimination aimed at one race or ethnic group. Things, however, had changed. It was difficult to understand why the question of ethnic cleansing had arisen when in historical terms the people of Bosnia and Herzegovina were indeed all Slavs. The question of religious discrimination had been overlooked, but in view of the aggression by Croats and Serbs against Muslims it was no longer possible to discount that possibility as, in the final analysis, "Muslim cleansing" was taking place. The Sub-Commission could not talk of the plight of Bosnian Muslims in the context of the issue of minorities, given that they in fact represented the majority of the population. It was the majority group which was being attacked and put into concentration camps. The Muslims were being systematically destroyed and annihilated. She considered the agreement put forward by the peace negotiators to be shameful and unacceptable as a solution. It was the Sub-Commission's duty to stand up and be counted and show that at least one section of the international community would not accept human rights violations and negotiations which would in effect eradicate an ethnic group and a State recognized by the United Nations. The issue was not that Muslims were being exterminated. The same efforts would be needed if Jews or Christians were facing the same situation. The world could not wait for 30 years or more to rectify a situation, as 30 years hence there would be no Bosnian Muslims left to protect.

68. Mr. UL-HAKIM said that he fully endorsed the statement made by Mr. Eide and the sentiments expressed by Mrs. Warzazi. Unless immediate and forceful action was taken the repercussions would be unimaginable. Women and children were being abused on a massive scale and as history showed, such actions never went unpunished. It was absolutely necessary to implement the Security Council resolutions on Bosnia and Herzegovina. Despite designating seven areas as safe havens, the United Nations had not protected them, regardless of the continued bombing and human rights violations.

69. Unless the United Nations took extremely strong measures, even extending to bombing the aggressors, its fate would not be dissimilar to that of the League of Nations and the second holocaust would not be long in coming.

70. Mrs. ATTAH said that she regretted that as the tragic events in Bosnia and Herzegovina had unfolded, the international community had looked on helplessly. Although at the outset suggestions that a systematic attempt was being made to eliminate Muslims had been rejected, there was increasing evidence that that was very much the case. A solution based on religious grounds could not last if it were based on force. The problem would not be solved and a lasting solution merely postponed.

71. Mr. HELLER said that he too believed that the latest solution proposed would not guarantee an end to the conflict. Furthermore, implementation of the agreement would be no easy task, and the proposed solution constituted a dangerous precedent for other situations. The disintegration of the traditional nation State was a constant threat. The Sub-Commission needed to look at the influence of external agents which had made a difficult situation even more complicated.

72. Mrs. PALLEY said that the most important point that had been made was that the Sub-Commission must not be party to the institutionalization of racism and religious discrimination. If other parts of the United Nations system had to do so in the context of a short-term solution, the Sub-Commission should not feel bound to endorse it.

73. Over the previous 30 years Yugoslavia had been a special case, protected in the United Nations by its position in the Non-Aligned Movement, which had meant that there had been no criticism of the murder of half a million ethnic German women and children after the Second World War. Genocide was now being carried out against the Muslims and the Sub-Commission must ensure that it did not remain silent when its best friends were committing wicked deeds.

74. Mrs. FORERO UCLOS agreed that the solution proposed for the situation in Bosnia and Herzegovina could set a most dangerous precedent if it consolidated segregation on a permanent basis. The international community should not forget the need for multiracial States and the Sub-Commission itself should not remain unmoved.

75. Mr. SACHAR said that although the international community had expressed its intention of halting ethnic cleansing, it had in fact shown utter indifference to the great tragedy of Bosnia and Herzegovina. It now seemed that international bodies, which were mostly Western, were to partition the country and give the Bosnian Muslims, who constituted 44 per cent of the

population, 12 to 13 per cent of the territory. Some nations had declared themselves ready to intervene militarily but had then held back from action, while showing no hesitation in bombing a Somali warlord. Were those decisions taken on racial grounds? Even though Bosnian Muslims were Slav, were they to be treated as Arabs?

76. Partition must be rejected. It was not acceptable to the conscience of humankind. Once it had been done, it would happen again, as indeed an operation to drive people from their homes was taking place at that moment in another part of the world. It was the solemn duty of the Sub-Commission to say that Bosnia and Herzegovina must be allowed to remain as a State and that the international community must ensure that nothing like the current situation ever recurred.

77. Mr. CHERNICHENKO said that the situation in Bosnia and Herzegovina had aroused his deepest concern but having heard the deliberations of the Sub-Commission on the subject, he wondered what it could do about it. The Sub-Commission could express its hostility to partition of Bosnia and Herzegovina, but that would not help to settle the conflict, indeed, it was more likely to prolong it. The Sub-Commission should address the question of what, as a body of experts, it could contribute. The whole issue was a political one and the political aspects were difficult to separate from the humanitarian aspects. Those aspects were being decided at the highest level and there was a danger that the Sub-Commission would be discussing issues that really fell within the competence of the Security Council. Of course, the Sub-Commission must express its concern about the violations of the human rights of the Muslims, and also, it should be stressed, of the Serbs and Croats.

78. He wished to point out that people had talked of Serbs and Croats against Muslims, and of Slavs against Muslims but that most Bosnian Muslims were in fact Slavs and that Serbs and Croats had fought each other. The Sub-Commission must proceed cautiously and impartially and would hopefully come up with some constructive ideas.

79. Since the work of the Sub-Commission should really be aimed at preventing human rights violations wherever they might occur or prevent human rights situations from worsening, he wished to mention human rights in Latvia and Estonia. No blood had yet been shed in those countries, but discriminatory measures taken by the Latvian and Estonian authorities against the Russian-speaking population might have very serious consequences. He did not want to see a second Nagorny-Karabakh in the Baltic. He gave examples of discrimination, including that of a referendum in predominantly Russian-speaking regions of Estonia which had resulted in an overwhelming majority for autonomy within Estonia and which the Estonian Government had initially claimed to be falsified. He was concerned that such discrimination might presage the revival of apartheid.

80. Mrs. WARZAZI recalled that in her previous statement she had raised the question of whether the case of Bosnia and Herzegovina was really to do with minorities since the Muslims were the majority. Secondly, because the Security Council dealt with political situations, that did not mean that the Sub-Commission should accept everything that the Security Council did. The

Security Council was making terrible mistakes over Bosnia and Herzegovina which had been admitted as a State Member of the United Nations in 1992 and was now being destroyed. The whole point of the Sub-Commission was that it was apolitical, being made up of experts who considered problems in a scientific way. The Security Council might want to sanction injustice - it was made up of politicians. The Sub-Commission however was made up of experts and should take a stand against human rights violations. In an ideal world its task would have been to monitor the human rights situation of minorities in an independent Bosnia and Herzegovina, but at the present time the Sub-Commission could not watch whilst a State and a people disappeared, it must show that at least a small section of the international community cared.

81. Mr. EIDE agreed with Mrs. Warzazi that it was the Serbs and Croats in Bosnia and Herzegovina who were the minority and not the Muslims. The salient issue was that of discrimination by use of force, aided and abetted by neighbouring countries.

82. The relationship between religion and ethnicity was often very difficult, for instance, the persecution of the Jews had been described variously as being on religious, racial and ethnic grounds. There were serious and troubling racial overtones to the Bosnian conflict which fuelled the dangerous trend to Christian-Muslim confrontation in a wider arena and that must be taken into account, even though it was true that Serbs and Croats were killing each other.

83. Although it should not be forgotten that terrible crimes had been committed in the former Yugoslavia in the past, that was no justification for what might happen in the future. Article 1 of the Universal Declaration of Human Rights should be the basis for human relations and it was no longer acceptable that States should be structured on the basis of distinctions such as race, language or religion. Different linguistic and religious groups must live together and the majority should resist the temptation to remove those considered to be alien and different.

84. He had quoted Security Council documents in his report (E/CN.4/Sub.2/1993/34 and Add.1-3) pointing to a disparity between what the Security Council stated in its resolutions and what it was prepared to accept in reality. The resolutions stressed that territory gained by force could not be retained by aggressors. The problem lay with the situation on the ground and the available options for dealing with it, bearing in mind the lack of will for external intervention. The negotiators, however, were faced with a situation where a bloodbath was in progress and being carried out by people unbelievably insensitive to human rights. It was important not to adopt an anti-Serb attitude, since some Serbs and Croats were risking their lives to help Muslims.

85. Essentially, people who had lost their traditional power-base were now looking for new platforms and had seen how easy it was to provoke conflict. It was a terrible process and could be described as the games of ethnic and religious entrepreneurs, which must be studied in order to be prevented.

86. The question remained of what could be done. Direct military intervention would lead to further violence. Along with many others he had

often argued for a military-based police operation, without success. At an early stage it might have been possible but now some Serbs were clearly prepared to shoot hundreds or even thousands of hostages if such an intervention took place. The least the Sub-Commission could do would be to make it clear that it could not accept a permanent solution to the Bosnian conflict which confirmed the gains of the aggressor and the results of ethnic cleansing. Whatever kind of settlement was reached it should be regarded as a temporary one until the international community could, through for instance economic pressure, reorganize the constitution of Bosnia and Herzegovina. The forthcoming General Assembly would have to address the issue and should take a clear stand that a constitution which partitioned Bosnia and Herzegovina would be unacceptable and that any resultant State could not be admitted to the international community. Economic assistance should be provided to areas which were prepared to respect human rights, the previous Government of Bosnia and Herzegovina should continue to be dealt with and help and assistance should be refused those areas which insisted on maintaining a system based on ethnic or religious cleansing. He considered that such measures could have an impact.

87. Mr. YIMER said, in connection with Mr. Chernichenko's comments, that he did not understand why the Sub-Commission should not discuss Bosnia and Herzegovina since it was a human rights question. Under the Charter of the United Nations the Security Council had primary responsibility for matters of international peace and security and, of course, that competence should not be encroached upon, but the most massive human rights violations in recent memory were taking place and to talk about the competence of the Security Council was irrelevant unless the Sub-Commission wished to avoid the issue. The Security Council had taken action and everyone had their own view on the effectiveness of that action, he personally felt that it had failed. The Sub-Commission was a human rights body and had every right and a moral duty to pronounce on human rights issues anywhere in the world. Under the Charter, the Security Council could also speak out. There was no question of overlapping mandates.

The meeting rose at 1 p.m.